

ML166
26.07.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 9711 of 2021

**Syed Hameyet Ali & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Parvej Anam.
...For the Petitioners.**

**Mr. Santanu Kumar Mitra,
Mr. Mirza Kamruddin.
...For the State.**

Affidavit-of-service filed in Court today is taken on record.

None appears on behalf of either the Basirhat Municipality or the respondent Nos. 8 and 9 at whose instance the unauthorized construction is being carried on the Plot Nos. 3333/4315, 3347 & 3346 of Mouza-Basirhat, J.L. No. 43, P.S.-Basirhat, District-North 24-Parganas under the jurisdiction of the Basirhat Municipality.

On an application made under the Right to Information Act, 2005, the petitioners were informed that no building plan has been passed from the end of the Municipality in respect of the aforesaid plot numbers.

The petitioners through their learned advocate filed representation before the Municipality in January 2021 and allege that the same has not been taken up for consideration till date.

As it appears that the representation of the petitioners objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the Board of Councillors of the Basirhat Municipality to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioners immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated 22nd January, 2021 and a copy of the reply given under the Right to Information Act, 2005 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)